

DEPARTMENT OF STATE REVENUE
FIRST SUPPLEMENTAL LETTER OF FINDINGS NUMBER 940041 AGI
ADJUSTED GROSS INCOME TAX

For Tax Periods: 1987 Through 1990

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ISSUES

1. Tax Administration-Records

Authority: IC 6-3-4-1, IC 6-8.1-5-1(a).

Taxpayer protests the method used in determining the assessment.

STATEMENT OF FACTS

Taxpayer is an individual who owns and operates an unincorporated vacuum cleaner distributorship. Taxpayer did not file Indiana adjusted gross income tax returns for the years 1987-1990. After an audit, adjusted gross income taxes and penalty were assessed. Taxpayer protested the assessment. After a hearing, Taxpayer's protest was denied. Taxpayer requested and was granted a rehearing. Further facts will be provided as necessary.

1. Tax Administration-Records

Discussion

IC 6-3-4-1 provides that every resident of Indiana who has income greater than certain modifications must file an Indiana individual income tax return. Taxpayer does not dispute that he should have filed returns. Taxpayer does dispute, however, the amount of the assessment determined by the auditor. Taxpayer was unable to substantiate any business expenses besides the cost of his inventory. Therefore the assessment was based on the best information available pursuant to IC 6-8.1-5-1 (a) which provides for the assessment of additional adjusted gross income taxes as follows:

If the department believes that a person has not reported the proper amount of tax due, the department shall make a proposed assessment of

the unpaid tax on the basis of the best information available to the department. . . The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid, and the burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made.

At the rehearing, Taxpayer was unable to present any new and persuasive information or records for use in determining the proper amount of adjusted gross income tax. Taxpayer did not meet his burden of proving that the proposed assessment based on the best information available was incorrect.

Finding

Taxpayer's protest is denied.